

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In Re:)	Case No. 18 B 09317
)	
ANNA TOFANELLI,)	Chapter 13
)	
Debtor.)	Hon. Deborah L. Thorne

**NOTICE OF MOTION OF PERFORMANCE FINANCE
TO MODIFY AUTOMATIC STAY**

VIA ELECTRONIC NOTICE:

To: Marilyn O. Marshall (Trustee) 224 South Michigan Avenue, Suite 800 Chicago, Illinois 60604	Wylie W. Mok, Esq. (Debtor's Counsel) Geraci Law LLC 55 East Monroe Street, Suite 3400 Chicago, Illinois 60603
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VIA U.S. MAIL:

To: Anna Tofanelli (Debtor)
2522 North 74th Court
Elmwood Park, Illinois 60707

Please take notice that on the 28th day of November, 2018 at 9:30 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Deborah L. Thorne, or any judge sitting in his/her stead, in Courtroom 613 of the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois, and then and there present the attached ***Motion of Performance Finance to Modify Automatic Stay***, which has been electronically filed this date with the Clerk of the U.S. Bankruptcy Court for the Northern District of Illinois, a copy of which is hereby served upon you by electronic notice or U.S. Mail.

Respectfully submitted,

PERFORMANCE FINANCE,
Creditor,

By: /s/ Cari A. Kauffman
One of its attorneys

David J. Frankel (Ill. #6237097)
Cari A. Kauffman (Ill. #6301778)
Sorman & Frankel, Ltd.
180 North LaSalle Street, Suite 2700
Chicago, Illinois 60601
(312) 332-3535
(312) 332-3545 (facsimile)

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the above-named persons by electronic filing or, as noted above, by placing same in a properly addressed and sealed envelope, postage prepaid, and depositing it in the United States Mail at 180 North LaSalle Street, Chicago, Illinois on this 13th day of November, 2018, before the hour of 5:00 p.m.

/s/ Cari A. Kauffman

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**MOTION OF PERFORMANCE FINANCE
TO MODIFY AUTOMATIC STAY**

PERFORMANCE FINANCE (“Performance”), a creditor herein, by its attorneys, the law firm of Sorman & Frankel, Ltd., respectfully requests this Court, pursuant to Section 362 of the Bankruptcy Code, 11 U.S.C. §362 (West 2018), and such other Sections and Rules may apply, to enter an Order modifying the automatic stay provided therein. In support thereof, Performance states as follows:

1. On March 30, 2018, Anna Tofanelli (“Debtor”) filed a Voluntary Petition for Relief under Chapter 13 of the Bankruptcy Code and proposed Chapter 13 Plan, which provides for direct payments from Debtor to Performance on Performance’s secured claim, and which was confirmed on May 23, 2018.

2. Performance is a creditor of the Debtor with respect to a certain indebtedness secured by a lien upon a 2017 Indian Chieftan motor vehicle bearing a Vehicle Identification Number of 56KTCAA5H3354442 (the “Vehicle”). (See Ex. “A”).

3. As set forth in the Retail Installment Contract attached as Exhibit “A”, Debtor was required to tender equal monthly payments to Performance, each in the sum of \$449.18 with an interest rate of 6.99%. (See Ex. “A”).

4. Debtor has failed to make required payments to Performance due on and after July 4, 2018, resulting in a current default of \$2,485.90; the next payment of \$449.18 comes due on December 4, 2018.

5. The current total outstanding balance due to Performance from the Debtor for the Vehicle is \$23,844.21.

6. Debtor has failed to provide Performance or its counsel with proof of a valid full coverage insurance policy for the Vehicle identifying Performance as the lienholder/loss payee.

7. As such, Performance seeks relief from the automatic stay so that Performance may take possession of and sell the Vehicle and apply the sales proceeds to the balance due from Debtor.

8. Debtor has not offered, and Performance is not receiving, adequate protection for its secured interest or depreciating value. Further, Debtor has no equity in the Vehicle and the Vehicle is not necessary to an effective reorganization by Debtor.

9. Performance will suffer irreparable injury, harm, and damage should it be delayed in taking possession of the Vehicle and foreclosing its security interest therein.

10. Performance requests that Bankruptcy Rule 4001(a)(3) not apply to any Order granting this Motion.

WHEREFORE, Performance Finance respectfully requests that this Court enter an Order, as attached hereto, modifying the automatic stay provided by Section 362 of the Bankruptcy Code to permit Performance to take immediate possession of and foreclose its security interest in the 2017 Indian Chieftan motor vehicle bearing a Vehicle Identification Number of 56KTCAA5H3354442; and, for such other, further, and different relief as this Court deems just and proper.

Respectfully submitted,

PERFORMANCE FINANCE,
Creditor,

By: /s/ Cari A. Kauffman
One of its attorneys

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